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HOUSE . . . . . No. 4720

The Commonwealth of Massachusetts

By Mr. Sanchez of Boston, for the committee on Public Health, on Senate, Nos. 807, 834, 866, 878 and 909 and House, Nos. 2059, 2073, 2084, 2118, 2128, 2135, 2138, 2139, 3722 and 3910, a Bill reducing medical errors and improving patient safety (House, No. 4720). June 2, 2010.

FOR THE COMMITTEE:

NAME:	DISTRICT/ADDRESS:
Jeffrey Sánchez	15th Suffolk

The Commonwealth of Massachusetts

In the Year Two Thousand and Ten

An Act reducing medical errors and improving patient safety.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 1 of Chapter 111 of the General Laws, as appearing in the 2008 edition, is hereby amended by striking out the definition of "Medical peer review committee" or "committee", and inserting in place thereof the following definition:-

"Medical peer review committee" or "committee", (a) a committee of health care providers, which functions to:

(i) evaluate or improve the quality of health care rendered by providers of health care services;

(ii) determine whether health care services were performed in compliance with the applicable standards of care;

(iii) determine whether the costs of health care services were performed in compliance with the applicable standards of care;

(iv) determine whether the cost of the health care services rendered was considered reasonable by the providers of health services in the area;

(v) determine whether a health care provider's actions call into question such health care provider's fitness to provide health care services; or

(vi) evaluate and assist health care providers impaired or allegedly impaired by reason of alcohol, drugs, physical disability, mental instability or otherwise.

(b) "Medical peer review committee" shall also include:

(i) a committee of a pharmacy society or association that is authorized to evaluate the quality of pharmacy services or the competence of pharmacists and suggest improvements in pharmacy systems to enhance patient care; or

(ii) a pharmacy peer review committee established by a person or entity that owns a licensed pharmacy or employs pharmacists that is authorized to evaluate the quality of pharmacy services or the competence of pharmacists and suggest improvements in pharmacy systems to enhance patient care.

SECTION 2. Chapter 111 of the General Laws, as so appearing, is hereby amended by adding to section 51H the following subsection:–

(e) The department shall encourage the development and implementation of Methicillin-Resistant Staphylococcus Aureus (MRSA) screening and precautionary procedures that reduce MRSA infection rates. The department shall develop model MRSA screening and precautionary procedures for high-risk patients, as defined by the department, which may be implemented by facilities; provided however, that facilities may develop and implement MRSA screening and precautionary procedures independently.

The department definition of high-risk patients may include the following:

(i) the patient has documented medical conditions making them more susceptible to infection and is scheduled for an inpatient surgery.

(ii) the patient has been documented as having been previously discharged from a general acute hospital within the past 30 days prior to the current hospital admission.

(iii) the patient is being admitted to either the intensive care unit or the burn unit within the healthcare facility.

(iv) the patient receives inpatient dialysis treatment.

(v) the patient is being transferred from a nursing facility.

Facilities shall report on their use or non-use of MRSA screening and precautionary procedures to the department and the Betsy Lehman Center for Patient Safety and Medical Error Reduction. Reports shall be made in the manner and form established by the department.

SECTION 3. Chapter 111 of the General Laws, as so appearing, is hereby amended by inserting after section 51H the following new section:–

Section 51I. As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Adverse Event”, injury to a patient resulting from a medical intervention, and not to the underlying condition of the patient.

“Checklist of Care”, pre-determined steps to be followed by a team of healthcare providers before, during, and after a given procedure to decrease the possibility of patient harm by standardizing care.

"Facility," a hospital, institution maintaining an Intensive Care Unit, institution providing surgical services, or clinic providing ambulatory surgery.

The department shall encourage the development and implementation of checklists of care that prevent adverse events and reduce healthcare-associated infection rates. The department shall develop model checklists of care, which may be implemented by facilities; provided however, facilities may develop and implement checklists independently.

Facilities shall report data and information relative to their use or non-use of checklists to the department and the Betsy Lehman Center for Patient Safety and Medical Error Reduction. Reports shall be made in the manner and form established by the department.

SECTION 4. Chapter 111 of the General Laws, as so appearing, is hereby amended by inserting at the end of section 204 the following subsection:-

(f) The provisions of this section shall apply to any committee formed by an individual or group to perform the duties or functions of medical peer review, notwithstanding the fact that the formation of the committee is not required by law or regulation or that the individual or group is not solely affiliated with a public hospital or licensed hospital or nursing home or health maintenance organization.

SECTION 5. Chapter 112 of the General Laws is hereby amended by inserting after section 77 the following new section:-

Section 77A: No person filing a complaint or reporting or providing information pursuant to this section or assisting the board at its request in any manner in discharging its duties and functions, shall be liable in any cause of action arising out of the board's receipt of such information or

assistance, provided the person making the complaint or reporting or providing such information or assistance does so in good faith and without malice.

SECTION 6. Chapter 233 of the General Laws is hereby amended by inserting after section 23D the following new section:-

Section 23 D 1/2: As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings;

"Family", the spouse, parent, grandparent, stepmother, stepfather, child, grandchild, brother, sister, half brother, half sister, adopted children of parent, or spouse's parents of an injured party.

"Representative", a legal guardian, attorney, person designated to make decisions on behalf of a patient under a medical power of attorney, or any person recognized in law or custom as a patient's agent.

"Unanticipated outcome" means the outcome of a medical treatment or procedure, whether or not resulting from an intentional act, that differs from an intended result of such medical treatment or procedure.

In any claim or civil action brought by or on behalf of a patient allegedly experiencing an unanticipated outcome of medical care, any and all statements, affirmations, writings, gestures, activities, or conduct expressing apology, regret, sympathy, commiseration, condolence, compassion, or a general sense of benevolence which are made by a health care provider, an employee or agent of a health care provider, or by a health care facility to the patient, family of the patient, or a representative of the patient and which relate to the unanticipated outcome shall

be inadmissible as evidence in any judicial or administrative proceeding and shall not constitute an admission of liability.

SECTION 7: Notwithstanding any general or special law to the contrary, the board of registration of medicine, established pursuant to section 10 of Chapter 13, shall promulgate regulations relative to the education and training of health care providers in the early disclosure of adverse events, including, but not limited to, continuing medical education requirements. Nothing in this section shall affect the total hours of continuing medical education required by the board, including the number of hours required relative to risk management.

SECTION 8: Notwithstanding any general or special law to the contrary, the department of public health, in consultation with the Betsy Lehman Center for Patient Safety and Medical Error Reduction, established pursuant to section 16E of Chapter 6A, shall create an independent task force to study medication errors and adverse drug events. At least 1 member of the task force shall be a health care consumer representative. The task force shall issue a report on the frequency, nature, and location of occurrence of medication errors and adverse drug events. The task force shall make recommendations for reducing medication errors and adverse drug events across all settings of care. The task force shall file a report of its study, including its recommendations and drafts of any legislation, if necessary, with the clerks of the Senate and House of Representatives and the joint committees on public health and health care financing within one year of the effective date of this act.

SECTION 9. Notwithstanding any general or special law to the contrary, the department of public health, in consultation with the Betsy Lehman Center for Patient Safety and Medical Error Reduction, established pursuant to section 16E of Chapter 6A, shall create an independent task

force to study and reduce the practice of defensive medicine and medical overutilization in the Commonwealth, including but not limited to the overuse of imaging and screening technologies. At least 1 member of the task force shall be a health care consumer representative. The task force shall issue a report on the financial and non-financial impacts of defensive medicine and the impact of overutilization on patient safety. The task force shall file a report of its study, including its recommendations and drafts of any legislation, if necessary, with the clerks of the Senate and House of Representatives and the joint committees on public health and health care financing within one year of the effective date of this act.